

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA

v.

ANGEL OCASIO

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Case No. EP-11-CR-2728-KC-1

UNOPPOSED¹ MOTION TO AMEND CONDITIONS OF SUPERVISED RELEASE

Comes now ANGEL OCASIO, Defendant herein, by and through his attorney, Michael Gorman, and moves this Honorable Court to amend the Conditions of Supervised Release previously set forth in this matter. In support thereof, he would show as follows:

1. On September 19, 2013, Mr. Ocasio entered a plea of guilty to a charge of transportation of obscene matter in violation of 18 U.S.C. § 1462. On January 7, 2014, this Court pronounced its sentence of a sentence of time served followed by a three year term of supervised release.

2. One condition of supervised release set forth on page 3 of the Judgement provides “The defendant shall abstain from the use of alcohol and/or all other intoxicants during the term of supervision.” In its present form, this condition directs that Mr. Ocasio refrain from the consumption of alcohol completely.

3. This condition has been discussed with his supervising Probation Officer, Emilia Sanchez, and she has recommended that the request to amend this particular condition be raised to this Court through the present Motion. As was the case with Assistant United States Attorney William Lewis, she took no position on this proposed amendment.

4. Mr. Ocasio has no history of substance abuse or addiction issues. He has no criminal

¹Both the Government and the Office of United States Probation take no position on this Motion and leave the matter discussed herein to this Court’s discretion.

history involving alcohol abuse, nor any suggestion of problems arising after alcohol consumption. He is of legal age to consume alcohol, and does not pose any issues for this Court if permitted to consume alcohol in moderation at social gatherings. As such, neither his history nor the offense conduct at issue necessitates this restriction.

5. A district court may impose any condition of supervised release that is reasonably related to one of four factors: (1) the nature and characteristics of the offense and the history and characteristics of the defendant, (2) deterrence of criminal conduct, (3) protection of the public, and (4) the need to provide the defendant with educational training, medical care, or other correctional treatment. *United States v. Weatherton*, 567 F.3d 149, 153 (5th Cir. 2009); 18 U.S.C. §§ 3553(a)(1), (2)(B)-(D), 3583(d). Given a complete lack of history suggesting problems with alcohol consumption, it is respectfully submitted that a condition directing complete abstinence is unnecessary in Mr. Ocasio's case.

6. For the aforementioned reasons, Mr. Ocasio respectfully requests that the condition of supervised release be amended to preclude only excessive consumption of alcohol. Such would adequately serve the interests of deterrence and protection of the public implicated when one drinks alcohol to excess.

WHEREFORE, premises considered, Mr. Ocasio respectfully prays that this Honorable Court will amend the Defendant's conditions of supervised release in order to permit moderate consumption of alcohol.

MAUREEN SCOTT FRANCO
Acting Federal Public Defender

_____/s/_____

MICHAEL GORMAN
Assistant Federal Public Defender
Western District of Texas
Federal Building
700 E. San Antonio, D-401
El Paso, Texas 79901
(915) 534-6525

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of February, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to AUSA William Lewis, Office of the United States Attorney, Second Floor, Federal Building, 700 E. San Antonio, El Paso, Texas 79901.

_____/s/_____
MICHAEL GORMAN
Attorney for Defendant

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ORDER AMENDING CONDITIONS OF SUPERVISED RELEASE

On this day the Court considered the present Unopposed Motion to Amend Conditions of Supervised Release. This Court is of the opinion that said Motion should be GRANTED.

It is therefore ordered that the condition specifying that “The defendant shall abstain from the use of alcohol and/or all other intoxicants during the term of supervision” shall be modified to provide “The defendant shall refrain from excessive consumption of alcohol. ” All other conditions remain as set forth in this Court’s Judgment in a Criminal Case signed January 9, 2014.

SO ORDERED.

SIGNED this ____ day of _____, 2014.

KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE